



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,247	04/24/2006	Jean-Claude Volckmann	930024-2041	8015

7590 02/28/2008
Ronald R Santucci
Frommer Lawrence & Haug
745 Fifth Avenue
New York, NY 10151

EXAMINER

SRIVASTAVA, TARUN K

ART UNIT	PAPER NUMBER
----------	--------------

4153

MAIL DATE	DELIVERY MODE
-----------	---------------

02/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/564,247	Applicant(s) VOLCKMANN ET AL.	
	Examiner TARUN K. SRIVASTAVA	Art Unit 4153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/11/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. The abstract should include the organization and operation of an apparatus. In addition, extensive mechanical and design details of apparatus should not be given.

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details. Furthermore, the language should be clear and concise and should not repeat information given in the title.

3. The abstract of the disclosure is objected to because the content and format are not in accord with aforementioned regulations. Correction is required. See MPEP § 608.01(b).

Priority

4. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

5. Claims 1-2, 4-7, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Jacklich (USPN 4,444,560).

Regarding claim 1, Jacklich discloses a device adapted to eject pasty products (7) comprising:

- an orifice (33) for ejecting the product, a drive cylinder with teeth (55) moving in a bore passing through the body (hollow part of the body '3');

- a mechanism for displacing the drive cylinder attached to the body (the drive cylinder allows for this movement);

- an articulating lever (53) acting on the teeth of the drive cylinder through an articulated pawl (the screw provides this 'pawl,' and is located on the drive cylinder) attached to the lever, wherein the lever is connected to the body by the means of a joint (57).

With respect to claim 2, Jacklich adequately teaches a drive cylinder with one end shaped to engage in a slot (55) formed on the non return pawl (attachment of 57 to 53) when the lever is engaged the 'wrong way around.' See 'Detailed Description of the Invention.'

Addressing claim 4, Jacklich teaches the profile of teeth on the drive cylinder between two consecutive crests comprising two straight segments connected by a radius.

Concerning claims 5 and 6, Jacklich teaches a 'liner' (9) able to rotate with respect to the body (via the mechanism denoted by 47), said liner comprising an elastically deformable part constituting the nonreturn pawl (47).

As far as claim 7 is concerned, Jacklich teaches a stud acting on one pawl (67).

In terms of claim 10, Jacklich discloses a body or lever that "can be molded" (paragraph 5).

Claim Rejections - 35 USC § 103

6. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacklich.

Jacklich does not explicitly teach a liner having translational movement with respect to the body. However, it would have been obvious to one of ordinary skill in the art to modify Jacklich's liner to have translational movement in order to better adapt to different patient anatomies.

7. Claim 3 is rejected under 35 U.S.C. 103(b) as obvious over Jacklich in view of Henri, et. al (USPN 4,710,178).

Regarding claim 3, Jacklich does not adequately teach a drive cylinder that has no teeth along its entire length and is able to rotate in the bore. However, Henri does teach a drive cylinder that has no teeth (paragraph 5). It would have been obvious to one of ordinary skill in the art to modify Jacklich's drive cylinder in view of Henri's drive cylinder in order to provide for more smooth rotation.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: USPN 4,533,352. The USPN 4,533,352, teaches a device capable of ejecting fluid which comprises a body, a drive cylinder, a lever, and a liner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TARUN K. SRIVASTAVA whose telephone number is (571)270-3769. The examiner can normally be reached on M - R 5:30 - 2:00 EST.

Art Unit: 4153

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jackson can be reached on 571-272-4697. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Respectfully Submitted,

TKS

/T. K. S./

Examiner, Art Unit 4153

02/01/08

/Gary Jackson/

Supervisory Patent Examiner

Art Unit 4153